

in terms of long-term jobs, share in the product, stock ownership, literacy programme, capacity building, and so on. The policy does not look beyond compensation, though it tries to give impression of being holistic. Fernandes (1997:26) points out that displacement in the name of national development has become a mode of transferring common property resources (CPRs) from communities for whom they are a life support system to the corporate sector for whom they are a source of profit or raw material to produce consumer goods for the middle class. Thus a clear distinction exists between the class that gets the benefits and those who pay the price of "national development", particularly the tribals. This is a process of impoverishment of the CPR-dependent and landless communities.

### DEVELOPMENT NOT FOR TRIBES

The development-versus-destruction debate is not new. Mega projects are justified in terms of "national interest". But the question is why these projects have to dislocate mainly tribals, and not elite of the society. The Pachwara tribals are also for development, but a 'dignified' one. If development were to be from below, the underdogs of society would have also benefited from it. In the context of the tribals, the pangs of development are much more acute. The elite ignore the fact that there is land-life symbiosis of the tribals. Hence, indiscreet and rampant displacement in the mineral-rich state of Jharkhand, Chhattisgarh and Orissa is a curse for the tribals. The tribals, whose dependence on *jal, jungle, jamin* (water, forest, land) for livelihood is well known, are on the verge of virtual extinction –not only socio-culturally and psychologically but also physically, economically and politically. They have in their favour all the constitutional provisions and subsequent legislations. Moreover, some recent policies and draft bills, such as the National Tribal Policy, Scheduled Tribes (Recognition of Forest) Bill, Resettlement and Rehabilitation Policy, Right to Work, Right to Information, Employment Guarantee Act, etc., and other provisions for tribals in the Common Minimum Programme of the UPA (United People's Alliance) Government, all promise to empower the tribals. The irony, however, is that the threat to life and livelihood has never been as acute as it is today. The insensitivity of the government and the industry-politician nexus is facilitating the hegemony of multinational companies over natural resources with profiteering as their common minimum agenda, tragically at the cost of the tribals (Kujur 2005).

The situation today has reached an alarming juncture, with mines and factories multiplying overnight. The Jharkhand government has in the recent past signed 40 memoranda of understanding (MoU) with various industrialists, including some multinational companies. The tribals' livelihood is based on agriculture and forest produce, and they have maintained their traditional system of cultivation. Recent years, however, have seen an unprecedented surge in construction of dams, factories and mining operations in the region, causing dislocation of tribal communities at all levels. Indiscreet industrialisation of the region has alienated tribal forests and land, upsetting their pattern of livelihood. Tribals are being blamed for destruction of the forests. They are harassed even for collecting firewood, which is their daily need. They have been evicted from their forest lands, and their houses have been destroyed and burnt. False cases have been registered and they have even been sent to jail. Some of the tribal villages have been in existence for hundreds of years, but till now *pattas* (land documents) have not been given to them. Since their villages are not registered as revenue villages, tribe and residential certificates are not issued to them. They are not included in the voters' list. No government schemes are available to these villages. The tribals are being deprived of natural resources, such as minor forest produce, and the existence of tribals living in the forest is in complete darkness.

A matter of grave concern is the attitude of partisanship towards a few haves at the cost of the have-nots. This approach is discriminatory against those on the periphery of Indian democracy. Fernandes and Paranjpye (1997:19) observe that most of the displaced belong to the subaltern classes, of which more than 40 per cent of the pre-1990 DPs and around 50 per cent today were tribals. No compensation had been given for the loss of other CPRs on which the tribals have depended so far. Their regions have been administratively neglected. If at all they get compensation, it is too late and too little for living a dignified life. The Land Acquisition Act, 1984, limits compensation to *patta* holders. Those affected are ignored when decisions are taken that will displace them, and efforts are made to involve them only at the time of resettlement (Fernandes and Paranjpye: 20-21).

As per a conservative estimate of displacement by various projects from 1951 to 1990, as many as 75.29 per cent of the total displaced in this period by mining industries were not rehabilitated. Similarly, 75 per cent of the DPs from dams, 70 per cent from the industries, 79 per cent from the wildlife and 70 per cent from other projects of displacement were not

at all rehabilitated. Thus, on the whole, 74.74 per cent of the DPs were not rehabilitated in four decades. It should be noted that the figures above do not take into account the DPs from involuntary sources other than those mentioned above. (Lourdsamy 1997:25). Of the total displaced, 75.2 per cent of the DPs from the water resources were tribals. The percentage of DPs from industries and quasi-industries was 34. Nearly 29.6 per cent of the tribals were displaced from mining industries. Similarly 89.7 per cent, 15.8 per cent and 27.7 per cent tribals were displaced from defence establishments, wildlife sanctuaries and infrastructural development, respectively. Thus, the study by Ekka and Asif (2000:95) reveals that the total percentage of the tribals displaced from various enterprises in Jharkhand in 1951-1995 was 41.27. The figures clearly indicate that the *adivasis*<sup>10</sup> are the worst sufferers of all so-called development projects.

Baxi (1989:164) believes that in the planning process in India, the spirit of the Constitution, that is, "respect for human rights", has been betrayed. People are not partners in the process of decision-making in matters of construction of dams, their size, areas of submergence, environment impact, cost-benefit analysis, allocation of resources, designs including safety designing, epidemiological impact analysis, contracts for construction, flow of benefits to certain classes/sectors, displacement, rehabilitation, etc. All these are considered to be the domain of the administration. Baxi argues for development that has a more 'representative' and people-oriented character. Involuntary relocation of sites of community existence is always problematic as the consequent dislocation of human beings is much too high (Baxi:164-69). Monetary compensation is only one component of rehabilitation, but not the most decisive.

### PROCESS OF 'DE-CONSTITUTIONALISATION'

The process of displacement and lackluster response of the Government to the resettlement of PAFs appears anti-constitutional. In the preamble of the Constitution, for instance, there is a call for "equality of status and opportunity". The Fundamental Rights reiterate the same. There are, however, exceptions to the Right so that "equal opportunity" is, in fact, given to the tribals.

As per the constitutional provisions, the Government of India Act, 1935, categorises 'Tribal Areas' as 'Excluded Areas'. Special provisions are given in a separate schedule, namely, the Sixth Schedule for administration

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10 Indigenous peoples living in their habitat from the ancient (*adi*) times.

with special powers. Other tribal tracts, categorised as 'Partially Excluded Areas', were categorised in the Fifth Schedule. The Fifth Schedule has comprehensive provisions for protection of tribals of the Scheduled Areas "against the State as also other exotic forces". There is in the Fifth Schedule provisions for the protection of the tribes from expropriation, preservation of tribal autonomy and socio-economic and political empowerment. The governor is vested with the necessary powers to achieve the above objectives (Sharma, 2001:234-36). According to 45.Clause 5(1) of the Fifth Schedule, the governor may, by notification, direct that any particular Act of any legislature shall not apply to the Scheduled Area or part thereof. This provision thereby guarantees them protection from untoward happenings emanating from vested interests, motivated individuals and government executives, and even the legislature. Even the provisions of Panchayats (Extension to the Scheduled Area) Act, 1996 (PESA), has revolutionary implications. It arms the villages with powers to protect, preserve and manage their customs, traditions and resources. In particular, PESA envisages that recommendations of the *gram sabha* shall be made mandatory before the granting of prospecting licence, mining lease and other-concessions in respect of minor minerals.

The Santhal Pargana division falls within the Scheduled Areas. As per the Santhal Pargana Tenancy Act (SPT Act), the village administration under the traditional tribal head, *manjhi/pradhan*, has been given legal status. Further, the *raiyats* of Santhal Pargana are protected from land alienation. Section 20 stipulates: "No transfer by a raiyat of his right in his holding thereof, by sale, gift, mortgage, will, lease or any other contract or agreement, express or implied shall be valid". Further, Section 41 provides: "No vacant holding and no wasteland in a Paharia village<sup>11</sup> - within Damin-I-Koh Government Estate - shall be settled with a person who is not a Paharia". The SPT Act guides further settlement of wasteland, *nullah*, river, grazing land and road, under Sections 27, 28, 35 and 36. Under Section 33, wasteland settled must be brought under cultivation within five years. Otherwise, it reverts, meaning thereby that settling of wasteland is only for agricultural purposes.

Modern day development has total disregard for all constitutional provisions. It is as if the process of de-constitutionalisation is catching momentum under the garb of globalisation, privatisation and liberalisation.

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<sup>11</sup> The village inhabited by the Paharia tribe

## CONCLUSION

The policy on resettlement is symptomatic of the larger problem of disempowerment of the weaker sections, especially the tribals. The policy appears to be another step in the process of further legitimising the appropriation of land of the already marginalised. There is no participation of tribals in the formulation of the policy document. And if at all it is there, the tribals involved in the policy-making are the elite of the society, and not those at the bottom. The *gram sabha* is not involved in the making of the policy on resettlement. The elite, due to political processes, sit at the top and control the functioning of Indian democracy. They have two agendas: First, the populist one, determined by vote-bank politics and; secondly, economic, which ultimately builds up their economic and political domination. Hence, sops are given from time to time without any serious commitment to implementing the package. The resettlement policy is only one of them. What is happening in Jharkhand seems to be the direct consequence of the process of development as propagated by the World Bank, IMF, etc. and a powerful section of the Indian elite.

Development without people's participation is not possible. Every community has the right to develop and grow making use of what is available. The process of nation-building should come from within and not from outside. Hence, the real empowerment lies in handing over power to the villagers, who can decide whether their displacement is necessary for their development. If so, they themselves can have better resettlement policies rather than those formulated for them by the displacing agencies. For any rehabilitation programme to be successful, institutional changes are required for its early planning.

The state, by its anti-poor policies and programmes, displays total withdrawal from the concerns of the common people, especially of the tribals. The notion of 'mainstreamisation' reflects the mindset of the elite. At the level of political relationships, there is invasion of capital, distorting traditional groups. Hence, there is a drive to acquire property of the weaker groups. There is also in this process of internal colonialism a destruction of the cultural groups. Capitalism wants to subsume everything. The rich and the powerful with a colonial mindset continue to have control of the resources. It is these people who are opposed to any constitutional benefits for the tribals, who are against tribals' empowerment. The Centre is linked with the values of the rich and the powerful. Hence, the policy on resettlement can be effective insofar as it does not go against the interests of the vested interests. Despite the UPA Government's assurance to safeguard the tribal interests, the "historical injustice" continues unchecked. □

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